

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PENNSYLVANIA

EDWARD WARREN,
Plaintiff,

-V-

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS,

DAVID EBBERT, WARDEN;
INDIVIDUAL AND OFFICIAL CAPACITY;

S. BROWN, HEALTH SERVICES ADMINISTRATOR;
INDIVIDUAL AND OFFICIAL CAPACITY;

PATRICK RAMIREZ, FOOD SERVICE ADMINISTRATOR;
INDIVIDUAL AND OFFICIAL CAPACITY;

JENNIFER SEROSKI, PHYSICIANS ASSISTANT;
INDIVIDUAL AND OFFICIAL CAPACITY;
Defendant's

Case No. 1:17cv1569

Complaint

Jury Demand

FILED
SCRANTON

SEP 01 2017

PER Amo
DEPUTY CLERK

INTRODUCTION

This is a civil rights complaint filed by Edward Warren, a federal prisoner, for damages and declaratory relief pursuant to the Federal Tort Claims Act, and Bivens, alleging cruel and unusual punishment, deliberate indifference to a serious medical need, denial of medical care under the Eighth Amendment to the United States Constitution. The plaintiff also alleges the tort of Negligence.

JURISDICTION

1). This Court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §3131 and §1343, and §1346.

2). This Court has supplemental jurisdiction over the plaintiff's State Law Tort claims under 28 U.S.C. §1367.

PARTIES

1). The plaintiff, Edward Warren, was incarcerated at the

Lewisburg Federal Penitentiary in Lewisburg, Pennsylvania during the events described in this complaint.

4). Defendant, David Ebbert is the Warden AT Lewisburg Federal Penitentiary. He is sued in his Individual and Official capacity. He is in charge of the day to day operations of the penitentiary, and had full knowledge that inmates were getting sick. He had a duty to intervene, and he failed to do so.

5). Defendant, S. Brown is the health Services Administrator at Lewisburg Federal penitentiary. He is sued in his Individual and Official capacity. He is fully in charge of the Health Services Department, and he had full knowledge that inmates were getting sick. He had a duty to intervene, and he failed to do so.

6). Defendant, Patrick Ramirez is the Food Services Administrator at Lewisburg Federal penitentiary. He is sued in his Individual and Official capacity. He is fully in charge of the Food Services Department, and he continued to serve food out of the unsanitary kitchen for two weeks after inmates complained of getting sick.

7). Defendant, Jennifer Serkoski is a physicians assistant at Lewisburg Federal Penitentiary. She is sued in her Individual and Official capacity. She was directly in charge of the day to day care of inmates, and had full knowledge that inmates were getting sick. She had a duty to intervene and failed to do so.

FACTS

8). On or about November 12, 2016, inmates at Lewisburg Federal Penitentiary started to complain of being sick with numerous symptoms including dehydration, nausea, weakness, chills, headache, vomiting, cold sweats, diarrhea, fever, loss of appetite, and abdominal pain.

9). From on or about November 12, 2016, through on or about November 28, 2016, more inmates were getting sick with the same symptoms, and defendant's S. Brown and Jennifer Seroski failed to act until the entire penitentiary population became sick.

10). The defendant's Ebbert, Brown, Ramirez, and Serkoski had full knowledge that inmates were getting sick with symptoms of salmonella, however, they failed to act or take any action.

11). On or about November 28, 2016, the Lewisburg Federal penitentiary including food services was shut down when defendant's S. Brown, David Ebbert, and Patrick Ramirez could no longer ignore the inmates that were getting sick.

12). Consequently, the defendant's failure to act promptly, caused the plaintiff to become sick with salmonella, and he had to be quarunteened.

13). For several weeks the plaintiff was sick with symptoms of salmonella, and while in quarunteen the plaintiff had to be given I.V. fluids multiple times, because of dehydration and even lost consciousness as well.

14). Prior to the plaintiff being symptom free he was removed from quarunteen and sent back to general population where he continued to be sick.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

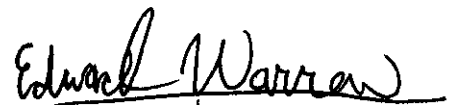
15). The plaintiff filed a standard form-95 to the Northeast Regional Office, and he received notice of a settlement offer that was not suitable for the amount of pain and suffering he endured as a result of the defendant's deliberate indifference and negligent actions.

RELIEF SOUGHT

Wherefore: The plaintiff seeks the following relief:

- a. Compensatory damages in the amount of 49,500 dollars.
- b. Puntive damages in the amount of 10,000 dollars.
- c. A declaratory judgment declaring that the defendant's violated the plaintiff's Eighth Amendment Constitutional rights, and displayed deliberate indifference to his serious medical needs.
- d. Any other relief the Court deems fair and equitable.

Signed this 27 day of August 27 2017, under the penalty of perjury pursuant to Title 28 U.S.C. §1746.



Edward Warren 41769-007
USP Hazleton

P.O Box 2000

Bruceton Mills WV 26525



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA. 19106

June 8, 2017

Edward Warren, Reg. No. 41769-007
USP Hazelton
P.O. BOX 2000
Bruceton Mills, WV 26525

RE: Administrative Claim No. TRT-NER-2017-01662

Dear Mr. Warren:

Your Administrative Claim No. TRT-NER-2017-01662, properly received on December 23, 2016, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. Damages are sought in the amount of \$49,500.00 based on a personal injury claim. Specifically, you allege you became ill after being served contaminated food at USP Lewisburg.

After careful review of this claim, I have decided a settlement offer will be made in the amount of \$100.00. This amount is based upon our assessment of the relative value of your claim, based on your symptoms and treatment as verified in your medical record, and other factors. This is neither an admission nor denial of government liability.

If this amount is acceptable for settlement, please complete the highlighted portions and sign the enclosed voucher and promptly return it to this office for processing. If the offer is unacceptable, suit may be brought against the United States in the appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Tafelski", is written over a circular stamp or seal.

Michael D. Tafelski
Regional Counsel

cc: David J. Ebbert, Warden, USP Lewisburg

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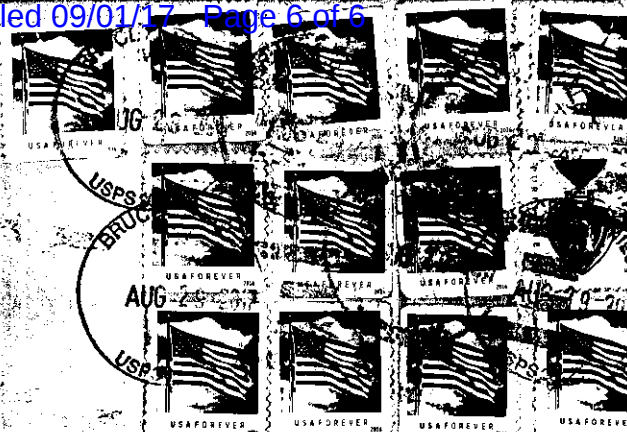
Box 2000

Leton Mills WV 26525

CERTIFIED MAIL



7015 0640 0007 6457 6752



Court Clerk

US District Court Middle District of Pennsylvania

William J. Nealon Federal Building 3 US Courthouse

235 N. Washington AVE Po Box 1148

Scranton PA 18501

RECEIVED

SEP 01 2017

PER
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LEGAL

MAIL

